

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIMMY E. RONE, SR.,

Petitioner,

v.

CASE NO. 03-72739
Honorable Patrick J. Duggan

RAYMOND BOOKER, Warden

Respondent.

**OPINION AND ORDER DENYING PETITIONER'S MOTION FOR RELIEF
FROM JUDGMENT**

At a session of said Court, held in the U.S. District
Courthouse, Eastern District
of Michigan on February 23, 2006.

PRESENT: HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Petitioner Jimmy E. Rone, Sr. ("Petitioner"), a state prisoner, filed a *pro se* petition for a writ of habeas corpus on July 17, 2003, pursuant to 28 U.S.C. Section 2254. Respondent subsequently filed a motion for summary judgment seeking dismissal of the petition for failure to comply with the one-year statute of limitations applicable to federal habeas actions. On June 4, 2004, this Court issued an Opinion and Order granting Respondent's motion and dismissing the petition. The Court concluded that the one-year statute of limitations applicable to Petitioner's petition for writ of habeas corpus expired on December 26, 2001, thereby rendering Petitioner's filing untimely. Petitioner filed a

motion for rehearing and/or reconsideration on June 17, 2004, which this Court denied on June 25, 2004. Presently before the Court is Petitioner's Motion for Relief from Judgment Pursuant to Federal Rule of Civil Procedure 60(b)(3), filed February 10, 2006. In his motion, Petitioner contends that "there has been either a 'fraud on the Court,' a 'misrepresentation of Petitioner claim[s],' and/or a 'grave manifest error'" mandating a reversal of the Court's June 4, 2004 Opinion and Order.

Rule 60(b)(3) provides in relevant part that "[o]n motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (3) fraud . . . misrepresentation, or other misconduct of an adverse party." Rule 60(b) further provides that a motion made for reasons (1), (2), and (3) may not be made more than one year after the judgment, order or proceeding was entered or taken. As Petitioner is seeking relief from the Court's June 4, 2004 Opinion and Order, his motion clearly has been filed beyond this one year time limit.

Accordingly,

IT IS ORDERED, that Petitioner's petition for rehearing and/or reconsideration is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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